

Kluwer Arbitration Blog

The EMAC finally established: Welcome on board!

Gordon Blanke (Blanke Arbitration LLC) · Saturday, June 4th, 2016

On 18 April 2016, following earlier anticipation (see my blog [here](#)), the Emirates Maritime Arbitration Centre, in shorthand “EMAC”, was finally established by virtue of a decree issued by His Highness Sheikh Mohammed bin Rashid Al Maktoum in his capacity as the Ruler of Dubai (see Decree No. 14 of 2016 establishing the Emirates Centre for Maritime Arbitration, including inter alia the Statute of the EMAC). The EMAC is a specialised arbitration centre that seeks to establish Dubai as a maritime dispute resolution hub in the region. According to Decree No. 14 of 2006, the EMAC has its own independent legal personality and is a financially and administratively independent institution established in the Emirate of Dubai (see Article 1). The Centre’s objectives are to *“enhance[e] maritime arbitration procedures to be more impartial and just”* and to *“disseminat[e] the culture of maritime arbitration locally, regionally and internationally”* (see Article 2, EMAC Statute). The EMAC has been given competence to oversee disputes both under the EMAC arbitration rules (once adopted) or any other rules chosen by the parties, seeks co-operation with other regional and/or international arbitration centres and aims to establish a roster of maritime arbitrators for appointment in EMAC arbitration (see Article 3, EMAC Statute).

On even date, the Ruler of Dubai also issued a decree to facilitate the formation of the EMAC Board of Trustees (see Decree No. 16 of 2016 for the Formation of the Board of Trustees of the Emirates Maritime Arbitration Centre), which is comprised of a total of fourteen illustrious members of the local and international maritime dispute resolution profession and chaired by the eminent Sir Anthony Colman, former Deputy Chief Justice of the DIFC Courts. The Board of Trustees is essentially tasked with adopting the EMAC’s arbitration rules (once drafted) and an administrative framework for EMAC arbitration (including a cost and fee schedule for arbitrations going forward and laying down minimum criteria of eligibility for EMAC arbitrators) (see Article 9, EMAC Statute). For the avoidance of doubt, any members of the Board may be appointed as chairman or sole arbitrator in EMAC arbitrations (see Article 21, EMAC Statute).

The EMAC is also assisted by an Executive Committee (see Article 12, EMAC Statute), which will inter alia be responsible for (i) revising the EMAC arbitration rules (once adopted), (ii) supervising the proper administration of the EMAC arbitration rules, (iii) the default-appointment of arbitrators under the EMAC arbitration rules, (iv) the

registration process of eligible arbitrators and their inclusion in the EMAC roster of arbitrators, (v) determining the seat and language of the arbitration where the parties have failed to agree, (vi) overseeing the challenge of arbitrators and (vii) fixing the arbitration costs, including arbitrator fees, in individual EMAC references (see Article 13, EMAC Statute). Importantly, to safeguard the efficiency of the proceedings, “[t]he [Executive] Committee’s members may take decisions in writing or by electronic communication [...] on matters relating to [...] the arbitration referred to them by the [EMAC] Secretary General.” (see Article 14 E, EMAC Statute) The EMAC Secretary General is to be appointed by the EMAC Board of Trustees and entrusted with ensuring the proper implementation of the EMAC Statute and the EMAC arbitration rules once adopted (see Article 15, EMAC Statute). With the support of the Secretary General, the EMAC will (i) administer arbitration references under the EMAC rules of arbitration; (ii) propose to the parties, upon request, suitable arbitrators from the EMAC roster of arbitrators; (iii) keep safe original copies of arbitral awards issued under the auspices of the EMAC, (iv) maintain updated the roster of EMAC arbitrators, (v) organise seminars and workshops on maritime arbitration and (vi) contribute to the continuous development of EMAC arbitration (see Article 16, EMAC Statute).

At present, the EMAC has not published its own rules of arbitration under which it will administer arbitration proceedings on maritime matters in the region. This being said, it is understood that the EMAC is in the process of drafting its own set of procedural rules, which are anticipated to promote the swift and competent resolution of maritime disputes in the Gulf and beyond. In support of procedural efficiency, the rules are likely to focus on arbitration on the basis of documents only where possible and give preference to the appointment of a sole arbitrator over costlier and more cumbersome three-member tribunals. The rules are also likely to confirm the DIFC as a seat of default where the parties fail to agree on the legal place of the arbitration. This will naturally import the efficiencies of the DIFC Courts in their role as curial courts into an EMAC arbitration process. The default choice of the DIFC as a seat of EMAC arbitrations also stands confirmed by the a number of provisions of the EMAC Statute, which provide as follows: “All matters not explicitly addressed in the Centre’s arbitration rules shall be subject to the arbitration law adopted by Dubai International Financial Centre” (see Article 4, EMAC Statute) and “unless otherwise agreed by the arbitrating parties, the Dubai International Financial Centre courts shall have the jurisdiction to consider any claim, application or challenge relating to any award or measure of arbitration issued by the Centre’s arbitration tribunals” (see Article 5, EMAC Statute). These provisions only make sense provided the DIFC has been chosen as the default seat of arbitration. In addition, it bears mentioning that in the exercise of their respective functions under the EMAC Statute and any prospective EMAC arbitration rules, the members of the EMAC Board of Trustees, Executive Committee, the Secretary General and any EMAC managerial staff will be exempted from liability for any act or omission except for causes of fraud or grave error; liability will rest with the EMAC (see Article 22, EMAC Statute), thus encouraging the relevant stakeholders within EMAC to exercise their functions without fear of claims of professional negligence being advanced against them in court.

Overall, the establishment of EMAC is a harbinger of Dubai’s commitment to promoting and leading the way in arbitration as an alternative dispute resolution

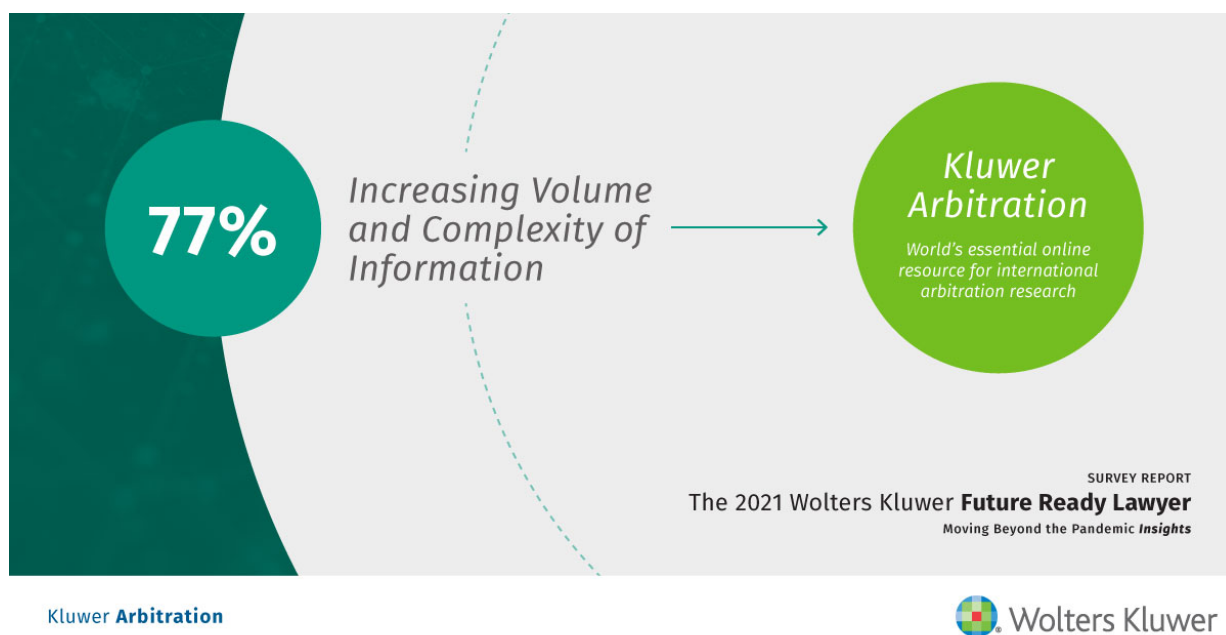
forum in specialist industry sectors in the Middle East. Welcome on board!

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